

**Order 96-5-3**

**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

**Served May 1, 1996**

Issued by the Department of Transportation  
on the 1st day of May, 1996

Application of

**JAPAN AIR LINES COMPANY, LTD.**

Dockets OST-95-971

for an exemption under 49 U.S.C.  
section 40109

**ORDER**

**Summary**

In this order we are granting Japan Air Lines Company, Ltd. (JAL) an exemption from section 41301 of Title 49 of the U.S. Code to conduct scheduled combination services between Tokyo, Japan, and Kona, Hawaii, for the summer 1996 season.<sup>1</sup>

**Application**

By application filed December 26, 1995, JAL seeks exemption authority authorizing it to engage in scheduled foreign air transportation of persons, property and mail between Tokyo and Kona. JAL requests that it be authorized to serve Kona on both a non-stop basis and a one-stop basis over Honolulu.

In support of its request, JAL states that the authority requested is consistent with a 1989 Memorandum of Understanding between the United States and Japan (1989 MOU); that it has been designated by the Government of Japan to perform the proposed services; and that its services will benefit the traveling public.

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<sup>1</sup> JAL holds a foreign air carrier permit issued by Order 70-8-66. JAL also holds various exemptions to perform specified services between Japan and the United States.

## **Responsive Pleadings**

Answers in response to JAL's request were filed by the State and County of Hawaii (the Hawaii Civic Parties), and United Air Lines, Inc.

The Hawaii Civic Parties support JAL's request and state that the requested authority is consistent with the provisions of the 1989 MOU between the United States and Japan, and that grant of JAL's request will provide new service to Hawaii and advance the economic interests of Hawaii and the United States.

United urges us not to act on JAL's instant request until Japan's Ministry of Transport (MOT) approves its request to commence Osaka-Seoul services.

Various additional pleadings were filed by the Hawaii Civic Parties, JAL, Northwest Airlines, Inc. (in support of JAL's request) and United.<sup>2</sup>

## **Recent Bilateral Developments**

U.S. and Japanese officials met informally April 29-30, 1996, in Washington, D.C. for talks on outstanding issues related to passenger services. In view of the heavy tourist travel during the summer season, the two sides agreed to allow a number of services to operate. They agreed that JAL be allowed to operate Tokyo-Kona services for the summer 1996 season (through October 26, 1996); and that it be allowed to increase its service in the Sendai-Honolulu market to up to seven weekly frequencies for five weeks commencing on May 2, 1996.<sup>3</sup> The two sides further agreed that United would be allowed to operate its Osaka-Seoul service for the summer 1996 season; and to increase capacity on its Los Angeles-Tokyo service for five weeks commencing on May 2, 1996. The two sides agreed to meet again in Tokyo, June 3-4, 1996, to discuss other passenger issues currently outstanding.

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<sup>2</sup> Each of the subsequent pleadings were accompanied by motions for leave to file otherwise unauthorized documents. We will grant the motions.

<sup>3</sup> JAL currently holds exemption authority to conduct thrice-weekly Sendai-Honolulu services. Order 96-3-63 (Docket OST-95-662). Contemporaneously with our action here, we are modifying that authority to make it consistent with this intergovernmental understanding.

## **Decision**

We have decided to grant JAL's request to serve Kona, Hawaii, on both a non-stop basis and a one-stop basis over Honolulu, for the summer 1996 season.<sup>4</sup> We are making this authority subject to the terms and conditions of the 1989 MOU, and JAL's foreign air carrier permit. The requested authority is provided for in the 1989 MOU between the United States and Japan, and is consistent with the arrangement reached by U.S. and Japanese officials in Washington, D.C., April 29-30, 1996. JAL has been designated by its government to perform the services requested.

The temporary arrangement reached between the United States and Japan resolves the near-term concerns raised by United relating to its request to commence Osaka-Seoul service. In addition, grant of JAL's request will provide significant economic benefits to Hawaii in the form of tourism and enhanced service benefits to the traveling and shipping public.

## **ACCORDINGLY,**

1. We grant Japan Air Lines Company, Ltd. an exemption from section 41301 of Title 49 of the U.S. Code to permit it to engage in scheduled foreign air transportation of persons, property and mail between Tokyo, Japan, and Kona, Hawaii, through the summer 1996 season;
2. The authority granted above shall be effective from the service date of this order through October 26, 1996;
3. The authority granted in ordering paragraph 1 above is subject to the conditions of Japan Air Lines' foreign air carrier permit (Order 70-8-66) and the 1989 MOU;
4. We grant all motions to file otherwise unauthorized documents in Docket OST-95-971;
5. To the extent not granted, we deny any additional requests for relief in Docket OST-95-971;

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<sup>4</sup> Since the duration of JAL's authority is for a period of fewer than 180 days, this is not a license with reference to an activity of a continuing nature within the meaning of 5 USC 558(c). See 14 CFR Part 377.

6. We may amend, modify or revoke this authority at any time and without hearing; and

7. We will serve a copy of this order on Japan Air Lines Company, Ltd.; United Air Lines, Inc.; Northwest Airlines, Inc.; the State of Hawaii; the County of Hawaii; the Embassy of Japan in Washington, D.C.; the Department of State Office of Aviation) and the Federal Aviation Administration (SF-IFO).

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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